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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/787,143

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John W. Hawks

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EXAMINER

MORGAN, ROBERT W

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/787,143

**Applicant(s)**

HAWKS, JOHN W.

**Examiner**

ROBERT W. MORGAN

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2004 and 06 August 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date 2/27/04  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Notice to Applicant***

1. In the Preliminary amendments filed 2/27/04 and 8/6/04, the following has occurred: Claims 1 and 13 have been amended and claims 17-20 have been added. Now claims 1-20 are presented for examination.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 2/27/04 has been entered and acknowledged.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,421,648 to Gagnon et al. in view of "Teacher isolation and communication network analysis in primary schools" by Bakkenes et al.

As per claim 1, Gagnon et al. teaches a data processing system (computer) that uses Network Marketing or Multi-Level Marketing (MLM) as a marketing approach (see: column 1, lines 8-11). Gagnon et al. also teaches that the goal of MLM is same as mass marketing which is to create and keep a customer base for a specific order (see: column 1, lines 33-35). In addition, Gagnon et al. further shows the relationships of all participants directly or indirectly introduced to a particular offer (see: column 11, lines 29-65 and Fig. 1). For example, Group A is made of A and everyone that has been directly (B, C) and indirectly (D, E, F, G, H, I, J without limit)

introduced to the offer by A. Furthermore, participants in group A are simultaneously part of other groups. In fact, participants are part of as many groups as there are upline generations between themselves and the first participant. In FIG. 1, J is simultaneously part of four different groups (his own, D's, B's, and A's) (see: column 11, lines 50-56). In addition, Gagnon teaches that a specific level of performance corresponds to specific title in a hierarchy (see: column 5, lines 32-33).

Gagnon et al. fails to explicitly teach

--the claimed each opinion leader being identified based on a threshold amount of influence;

--the claimed presenting the innovation to the opinion leaders, said presenting occurring after said determining and said identifying; and

--the claimed assisting with dispersion of evaluations of the innovation from opinion leaders to the members in the target community by using the influence network.

Bakkenes et al. teaches a network analysis of a school organization that includes participants such as staff members and individual staff members (teachers, principals, and other adults) joined by a variety of links that may transmit goods, services, information, influence, and affect (see: paragraph 13). Bakkenes et al. further teaches a communication network roles used for network analysis including group members, group linker (opinion leader) and isolated (see: paragraph 18-20). In addition, Bakkenes et al. teaches the group linkers has a wider range of contact throughout an organization and more control over the flow of information in an organization and, as a result, more influence. Furthermore, the group linker plays an important role in establishment of consensus on the broad goals of the network (see: paragraph 20). The

Examiner considers that group linkers are identified by the fact that they have wide range of contact and control over the flow information throughout an organization, and are trying to establish a consensus with the other group members regarding a goal (innovation) of the network, which obviously have been presented to the group linker after being identified.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the communication network analysis as taught by Bakkenes et al. within the multi-level marketing approach as taught by Gagnon et al. with the motivation of yielding insights that can be helpful in developing and supporting positive relationships in a communication network (see: Bakkenes et al: paragraph 1a).

As per claim 2, Bakkenes et al. teaches the step of determining the influence network using comprising the steps of

- the claimed providing questionnaires to members in the target community (see: paragraph 36);

- the claimed receiving completed questionnaires from the members (see: paragraph 36);

and

- the claimed analyzing the completed questionnaires to map the influence network (see: paragraph 38 and 40).

As per claim 3, Bakkenes et al. teaches the claimed step of determining the influence network comprises the steps of:

- the claimed associating each member with a node in the influence network (see: paragraph 52-57); and

--the claimed determining connections between the nodes in the influence network using relationships between the members (see: paragraph 52-57).

As per claim 4, Bakkenes et al. teaches the claimed step of determining the influence network comprises the step of determining at least one technical advice network and at least one trust and friendship network for the influence network (see: paragraph 52-57).

As per claim 5, Bakkenes et al. teaches the claimed step of determining the influence network comprises the step of generating a sociogram of the influence network (see: Fig. 1).

As per claim 6, Gagnon et al. teaches a data processing system that includes a storage means for storing data (see: column 10, lines 7-13).

Gagnon et al. fails to teach a storage device embodying the sociogram.

Bakkenes et al. teaches sociometric diagram based on binary data (see : paragraph 52 and 58 and Fig. 1).

The motivation for combining the teachings of Bakkenes et al. within Gagnon et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 7, Bakkenes et al. teaches a network analysis of a school organization that includes participants such as staff members and individual staff members (teachers, principals, and other adults) joined by a variety of links that may transmit goods, services, information, influence, and affect (see: paragraph 13). Bakkenes et al. further teaches a communication network roles used for network analysis including group members, group linker (opinion leader) and isolated (see: paragraph 18-20). The Examiner considers the transmitting or presenting of goods, services, information, influence, and affect by participant such as group linker as the opinion leader being recruited as a member of panel.

As per claim 8, Gagnon et al. teaches the claimed step of assisting with dispersion of evaluations of the innovation includes at least one of the steps of sending literature regarding the innovation to members in the target community; sending samples regarding the innovation to members in the target community; sending letters regarding the innovation to members in the target community; sending electronic mail regarding the innovation to members in the target community; making telephone calls regarding the innovation to members in the target community; visiting members in the target community to discuss the innovation; and attending forums for the target community to discuss the innovation with members in the target community. The business kit that includes information about the company, its leaders, the offer, the MLM concept, sales techniques and the compensation plan meets this limitation. The business kits are usually insufficient to properly train people and therefore, new participant are encouraged to attend regular, often weekly seminars (reads on “attending forums for the target community to discuss the innovation with members in the target community”) (see: column 6, lines 8-24).

As per claims 9 and 10, Gagnon and Bakkenes et al. teach a network analysis of a school organization including participants such as staff members and individual staff members (teachers, principals, and other adults) joined by a variety of links that may transmit goods, services, information, influence, and affect (see: Bakkenes et al: paragraph 13).

Gagnon and Bakkenes et al. fail to teach the innovation is at least one of a healthcare product and a healthcare service and the members in the target community are healthcare providers.

However, it is well known in the medical industry while using a multi-level marketing approach that new drug products are given to targeted physician for treatment of their patient's in order to test and determine the effectiveness of the product. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system as taught by Gagnon and Bakkenes et al. to include an innovation to at least one of a healthcare product and a healthcare service and the target community be a healthcare provider with the motivation of having product information readily available and to create a more focused marketing direction.

As per claims 11 and 12, Gagnon et al. teaches a computer having software for performing the step of determining the influence network and computer-readable medium having software for performing the step of determining the influence network. This limitation is met by the data processing system that includes a storage means for storing data (see: column 10, lines 7-13). In addition, Gagnon et al. teaches the relationships of all participants directly or indirectly introduced to a particular offer (see: column 11, lines 29-65 and Fig. 1). For example, Group A is made of A and everyone that has been directly (B, C) and indirectly (D, E, F, G, H, I, J without limit) introduced to the offer by A. Furthermore, participants in group A are simultaneously part of other groups. In fact, participants are part of as many groups as there are upline generations between themselves and the first participant. In FIG. 1, J is simultaneously part of four different groups (his own, D's, B's, and A's) (see: column 11, lines 50-56).

As per claim 13, Gagnon et al. teaches a data processing system that uses Network Marketing or Multi-Level Marketing (MLM) as a marketing approach (see: column 1, lines 8-11). Gagnon et al. also teaches that the goal of MLM is same as mass marketing which is to



create and keep a customer base for a specific order (see: column 1, lines 33-35). In addition, Gagnon et al. further shows the relationships of all participants directly or indirectly introduced to a particular offer (see: column 11, lines 29-65 and Fig. 1). For example, Group A is made of A and everyone that has been directly (B, C) and indirectly (D, E, F, G, H, I, J without limit) introduced to the offer by A. Furthermore, participants in group A are simultaneously part of other groups. In fact, participants are part of as many groups as there are upline generations between themselves and the first participant. In FIG. 1, J is simultaneously part of four different groups (his own, D's, B's, and A's) (see: column 11, lines 50-56). In addition, Gagnon teaches that a specific level of performance corresponds to specific title in a hierarchy (see: column 5, lines 32-33).

Gagnon et al. fails to teach:

--the claimed receiving at least one sociogram for an influence network for the plurality of members in the target community, said influence network mapping relationships between members in the target community, the influence network comprising at least one technical advice network for members in the target community and a trust and friendship network for members in the target community;

--the claimed presenting the innovation to the opinion leaders of the leaders of the technical advice network;

--the claimed assisting with dispersion of evaluation of the innovation from the opinion leaders of the technical advice network to the members in the target community using the technical advice network and at least one of the sociograms;

--the claimed assisting with dispersion of evaluations on the innovation from members in the technical advice network to the opinion leaders of the trust and friendship network using technical advice network, the trust and friendship network, and at least one of the sociogram; and

--the claimed assisting with dispersion of evaluations of the innovation from the opinion leaders of the trust and friendship network to the members in the target community using the trust and friendship network and at least one of the sociograms.

Bakkenes et al. teaches a network analysis of a school organization that includes participants such as staff members and individual staff members (teachers, principals, and other adults) joined by a variety of links that may transmit goods, services, information, influence, and affect (see: paragraph 13). Bakkenes et al. further teaches a communication network roles used for network analysis including group members, group linker (opinion leader) and isolated (see: paragraph 18-20). In addition, Bakkenes et al. teaches the group linkers has a wider range of contact throughout an organization and more control over the flow of information in an organization and, as a result, more influence. Furthermore, the group linker plays an important role in establishment of consensus on the broad goals of the network (see: paragraph 20). The Examiner considers that group linkers are identified by the fact that they have wide range of contact and control over the flow information throughout an organization, and are trying to establish a consensus with the other group members regarding a goal (innovation) of the network, which obviously have been presented to the group linker after being identified.

The obviousness of combining the teachings of Bakkenes within the system as taught by Gagnon are discussed in the rejection of claim 1, and incorporated herein.

As per claim 14, Bakkenes teaches the claimed the steps of:

- the claimed providing questionnaires to the members in the target community (see: paragraph 36);
- the claimed receiving completed questionnaires from the members (see: paragraph 36);
- the claimed associating each member in the completed questionnaires with a node in the influence network (see: paragraph 52-57);
- the claimed determining connections between the nodes in the influence network using the completed questionnaires (see: paragraph 52-57);
- the claimed determining the technical advice network and the trust and friendship network for the influence network (see: paragraph 52-57); and
- the claimed generating the at least one sociogram for the influence network (see: Fig. 1).

As per claims 15 and 16, Gagnon teaches a computer processor for processing data and a storage means for storing data on a storage medium (see: column 10, lines 10-12). Gagnon also teaches a means for inputting and processing data using different calculation methods (see: column 10, lines 31-45).

Gagnon fail to expressly teach computer or computer-readable medium for performing steps of associating each member, determining connections, determining the technical advice network and the trust and friendship network, and generating the at least one sociogram, wherein the software uses as input information from the completed questionnaires.

Bakkenes teaches a sociogram that reveals the communication network roles of individual within the network (see: paragraph 52-57). Bakkenes further teaches that all

participants receive questionnaires, which are completed and returned to a contact person in order to identify the positions of each member in the network (see: paragraph 37).

The obviousness of combining the teachings of Bakkenes within the system as taught by Gagnon are discussed in the rejection of claim 1, and incorporated herein.

As per claim 17, Gagnon et al. teaches the claimed step of determining the influence network comprises the step of obtaining information from members in the target community regarding relationship between members in the target community. This feature is met by the data processing system that includes a storage means for storing data (see: column 10, lines 7-13). In addition, Gagnon et al. teaches the relationships of all participants directly or indirectly introduced to a particular offer (see: column 11, lines 29-65 and Fig. 1). For example, Group A is made of A and everyone that has been directly (B, C) and indirectly (D, E, F, G, H, I, J without limit) introduced to the offer by A. Furthermore, participants in group A are simultaneously part of other groups. In fact, participants are part of as many groups as there are upline generations between themselves and the first participant. In FIG. 1, J is simultaneously part of four different groups (his own, D's, B's, and A's) (see: column 11, lines 50-56).

As per claim 18, Bakkenes teaches the claimed information regarding relationship between members in the target community comprises information regarding a social structure and a communication structure of the target community (see: paragraph 38-40).

As per claim 19, Bakkenes et al. teaches the claimed members in the target community are from a plurality of organizations (see: paragraph 35-37).

As per claim 20, Gagnon and Bakkenes et al. teach a network analysis of a school organization including participants such as staff members and individual staff members

(teachers, principals, and other adults) joined by a variety of links that may transmit goods, services, information, influence, and affect (see: Bakkenes et al: paragraph 13).

Gagnon and Bakkenes et al. fail to teach the innovation is at least one of a healthcare product or a healthcare service, wherein the members in the target community are healthcare providers, wherein the members in the target community are from a plurality of organizations.

However, it is well known in the medical industry while using a multi-level marketing approach that new drug products are given to targeted physician for treatment of their patient's in order to test and determine the effectiveness of the product. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system as taught by Gagnon and Bakkenes et al. to include an innovation to at least one of a healthcare product or a healthcare service and the target community be a healthcare provider from a plurality of organizations with the motivation of having product information readily available and to create a more focused marketing direction.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (5,712,987) Waits discloses interface and associated bank customer database that allows user to divide a database into demographic segments, and perform computations upon the segments.

In related art (5,278,751) Adiano et al. provides system and method for providing navigation and manipulation aid in the dynamic evaluation of the shifts in customer preference or needs.

